

LAW OFFICES OF RONALD A. MARRON

RONALD A. MARRON (SBN 175650)

ron@consumersadvocates.com

ALEXIS M. WOOD (SBN 270200)

alexis@consumersadvocates.com

KAS L. GALLUCCI (SBN 288709)

kas@consumersadvocates.com

651 Arroyo Drive

San Diego, California 92103

Telephone: (619) 696-9006

Facsimile: (619) 564-6665

Attorneys for Plaintiffs and the Proposed Classes

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE UKG INC CYBERSECURITY
LITIGATION

Case No. 3:22-cv-00346-SI

THIS DOCUMENT RELATES TO:

All Actions.

**SUPPLEMENTAL DECLARATION
OF SCOTT M. FENWICK OF KROLL
SETTLEMENT ADMINISTRATION
LLC IN CONNECTION WITH FINAL
APPROVAL OF SETTLEMENT**

Judge: Hon. Susan Illston

I, Scott M. Fenwick, declare as follows:

INTRODUCTION

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),¹ the Settlement Administrator appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in that certain Settlement Agreement and Release (the “Settlement Agreement”) entered into in connection with the above-captioned Action.

2. This declaration supplements the *Declaration of Scott M. Fenwick of Kroll Settlement Administration LLC in Connection with Final Approval of Settlement*, filed August 14, 2023 (the “August 2023 Declaration”) and the *Declaration of Jeanne C. Finegan, APR of Kroll Settlement Administration LLC in Connection with Implementation of Notice Plan and Claims Review Process*, filed October 17, 2023 (the “October 2023 Declaration”) (collectively, the “Prior Declarations”) in order to provide updated information to the Court regarding activity on the dedicated toll-free telephone line and Settlement Website, the number of Claim Forms received, the cure process for deficient Claim Forms, the number and value of Approved Claims, exclusions requests received by Kroll, and an updated amount for Settlement Administration Expenses. The Prior Declarations are incorporated herein by reference in their entirety.

NOTICE PROGRAM

3. As stated in the Prior Declarations, on May 24, 2023, Kroll established a toll-free telephone number, (833) 747-6267, for Settlement Class Members to call and obtain additional information regarding the Settlement through an Interactive Voice Response (“IVR”) system. As of November 15, 2023, the IVR system has received 1,587 calls, totaling 5,242 minutes.

4. As stated in the Prior Declarations, on May 1, 2023, Kroll created a dedicated Settlement Website entitled www.kronosprivatecloudsettlement.com. As of November 15, 2023, there have been more than 405,000 unique visitors to the website.

CLAIM ACTIVITY

5. The Claims Deadline was October 3, 2023, upon which time Kroll began review of the claims, including implementing a cure process.

6. At the direction of Class Counsel and Defendant’s Counsel (collectively, “Counsel”) and in compliance with section 65 of the Settlement Agreement, Kroll performed a detailed analysis of the Claim Forms submitted to identify duplicate claims and potentially suspicious claims. Kroll employed multiple levels of review using information provided by Claimants, including names, physical addresses, email addresses, IP addresses, electronic payment accounts, and names of employers during the December 2021 KPC Cyberattack.

7. At the direction of Counsel, Kroll approved more than one Claim Form per Settlement Class Member if that Settlement Class Member submitted Claim Forms on behalf of dependents.

8. As of November 15, 2023, Kroll has determined it has received 21,201 valid Claim Forms. Furthermore, as of November 15, 2023, Kroll has received fifteen (15) late Claim Forms through the mail with a postmark date after the October 3, 2023, Claims Deadline, thirteen (13) of which are otherwise valid. Of the thirteen (13) late but otherwise valid Claim Forms, two (2) claims are from the Exfiltration Subclass and eleven (11) claims are from the Nationwide Class.

9. Kroll has reviewed all 719 Claim Forms received that required documentation be provided by Settlement Class Members to support claims for Ordinary Expenses and Extraordinary Losses.

10. At the direction of Counsel, on October 24, 2023, Kroll caused deficiency notices to be sent via email to Settlement Class Members with deficient Claim Forms. The deficiency cure form was also posted to the Settlement Website. A true and correct copy of the deficiency cure form available for download is attached hereto as **Exhibit A**.

11. The deadline to respond to such notices was October 31, 2023. Pursuant to section 63(b) of the Settlement Agreement, Settlement Class Members could submit documents and other information through the Settlement Website to cure deficient Claim Forms.

12. As of November 15, 2023, Kroll has reviewed and processed the supplemental documentation and information provided by Settlement Class Members for deficient Claim Forms.

13. As of November 15, 2023, Kroll has determined that the 21,201 Claim Forms are valid² and are worth approximately \$2,392,766.30, representing 1,637 Approved Claims worth approximately \$230,485.64 for identified Exfiltration Subclass Members and 19,564 Approved Claims worth approximately \$2,162,280.66 for the Nationwide Class. The current Approved

² Included in the valid claims number are thirteen (13) untimely but otherwise valid claims (two late claims were invalid). These untimely valid claims represent \$1,800 in Ordinary Expenses. We understand Class Counsel will be requesting the Court approve these thirteen (13) claims and as such have included them in our calculations.

1 Claims rate for the Exfiltration Subclass is 8.2%. Kroll is now in the process of completing internal
2 quality assurance and, as such, it is possible that the final number of Approved Claims that will
3 receive a benefit may change until such process is complete.

4 **EXCLUSIONS AND OBJECTIONS**

5 14. The Objection/Exclusion Deadline was September 18, 2023.

6 15. As stated in the October 2023 Declaration, Kroll has received three (3) timely
7 exclusion requests and one (1) late exclusion request, which was postmarked on October 3, 2023.
8 As of November 15, 2023, Kroll has not received additional exclusion requests. Settlement Class
9 Members were not instructed to submit their objection to the Settlement Administrator, and none
10 have been received by Kroll.

11 **SETTLEMENT ADMINISTRATION EXPENSES**

12 16. As of November 15, 2023, Kroll has billed \$862,380.39 for Settlement
13 Administration Expenses incurred in the administration of this matter through October 31, 2023,
14 which includes media costs. Kroll estimates that it will bill an additional \$150,000.00 to complete
15 the administration of this Settlement with a lowered cap of \$1,015,000.00 from \$1,200,000.00.
16 The additional administration includes final validation of Approved Claims, issuing payments to
17 Settlement Class Members for Approved Claims, filing taxes for the Settlement Fund, maintaining
18 the Settlement Website and toll-free telephone number through the close of administration,
19 responding to Settlement Class Members inquiries, and providing a post-distribution declaration to
20 Counsel and Court. The current estimate is subject to change depending on factors such as the final
21 validation of Approved Claims, the number of Settlement payments to be issued, or any Settlement
22 administration scope change not currently under consideration. This estimate is based on Kroll's
23 many years of experience administering class action settlements. Kroll will submit monthly
24 invoices of Settlement Administration Expenses from November 1, 2023, through the end of
25 administration for Class Counsel to review prior to payment.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this Declaration was executed on November 15, 2023, in Inver Grove Heights, Minnesota.

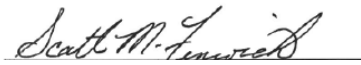

SCOTT M. FENWICK

Exhibit A

**Must be
postmarked or
submitted online
no later than
October 31, 2023**

Kronos Private Cloud Settlement
c/o Kroll Settlement Administration
P.O. Box 2253391
New York, NY 10150-5391
www.KronosPrivateCloudSettlement.com

Deficiency Cure Form

Directions: If you received a deficiency notice related to your claim, you must complete Section A, B, C, and/or D below, based on the direction provided on your deficiency notice. You must also complete required sections "Claimant Information" and "Signature".

CLAIMANT INFORMATION (REQUIRED)

**Name
(required)**

First MI Last

**Current
Mailing
Address
(required)**

Address 1

Address 2 (optional)

City

State

Zip

SECTION A: CASH PAYMENT FOR EXFILTRATION SUBCLASS MEMBERS

**Name of Employer During
December 2021 KPC Cyberattack:**

You may also prove your membership in the Exfiltration Subclass by providing the Unique Class Member ID that was printed on the postcard notice you were sent. **Note: This will be different from the Unique Class Member ID you received in your deficiency notice.**

Unique Class Member ID:

If you are not a part of the Exfiltration Subclass, you may be eligible for lost time. If you spent personal time responding to issues resulting from the December 2021 KPC Cyberattack that has not been previously reimbursed by a third party, including time spent responding to interruption of applications hosted in the KPC, you may claim up to four hours of lost personal time at \$25/hour, which may include, but is not limited to, time spent: (i) dealing with impacts from delayed payments(s); (ii) dealing with interruption of access to information stored in the KPC; (iii) taking preventative measures (for example, time spent reviewing your accounts, placing or removing security freezes on your credit report, or purchasing credit monitoring or identity protection); or (iv) if you are a member of the Exfiltration Subclass, remedying fraud, identity theft, or other alleged misuse of your personal information resulting from the December 2021 KPC Cyberattack. Lost or unreimbursed wages are not lost personal time.

Number of Hours Claimed (round to the nearest hour, up to 4 hours allowed):

☐ I attest and affirm that I have spent the number of hours of personal time claimed above responding to issues resulting from the December 2021 KPC Cyberattack that has not be previously reimbursed.



68744



DEF



Page 1 of 3

SECTION B: CASH PAYMENT FOR CALIFORNIA SUBCLASS MEMBERS

California Subclass Members Only: Provide the address of your California residence at the time of the December 2021 KPC Cyberattack, if any.

☐ I believe I am entitled to the additional \$30 cash benefit as a California Subclass Member and certify that I resided in California in December of 2021, at the following address:

Address

Address 2

City

State

Zip

**SECTION C: PAYMENT FOR UNREIMBURSED OUT-OF-POCKET EXPENSES
(ORDINARY LOSSES)**

If you received a deficiency notice concerning insufficient supporting documentation for unreimbursed out-of-pocket personal expenses, you must attach documents to this deficiency cure form that show what happened and how much you lost or spent.

Unreimbursed out-of-pocket expenses more likely than not caused by and fairly traceable to the December 2021 KPC Cyberattack and subsequent interruption of applications hosted in the KPC that are eligible for reimbursement include, but are not limited to, the following:

- Long distance phone charges;
- Cell phone charges (only if charged by the minute);
- Data charges (only if charged based on the amount of data used);
- Bank fees (documented);
- Credit monitoring (documented); and
- Late fees (documented).

SECTION D: PAYMENT FOR UNREIMBURSED EXTRAORDINARY LOSSES

If you received a deficiency notice concerning insufficient supporting documentation for unreimbursed Extraordinary Losses available to the Exfiltration Subclass, you must attach documents to this deficiency cure form that show what happened and how much you lost or spent.

Monetary losses for Extraordinary Losses resulting from the December 2021 KPC Cyberattack that are eligible for reimbursement may include, without limitation, the following:

- Unreimbursed costs, expenses, losses or charges you paid on or after December 2021, because of identity theft or identity fraud, falsified tax returns, or other alleged misuse of your personal information;
- Professional fees incurred in connection with addressing identity theft, fraud, or falsified tax returns.



68744



DEF



Page 2 of 3

SIGNATURE

I affirm under the laws of the United States that the information I have supplied on this form and any copies of documents that I am sending to support my claim are true and correct to the best of my knowledge.

By signing below, I understand that my cash benefit may decrease or increase depending on the number and amount of claims filed.

Signature

____ / ____ / ____
Date

Printed Name



68744



DEF



Page 3 of 3